

FAMILY COURT CASES

1

HOW TO FILE A PETITION TO ENFORCE A CHILD CUSTODY DETERMINATION

**(To have your child who is illegally withheld from
you returned to you)**

(Instructions Packet)

© Superior Court of Arizona in Maricopa County
Sept. 20, 2002
ALL RIGHTS RESERVED
DREHC1ic - 5104



SELF SERVICE CENTER

HOW TO FILE A PETITION TO ENFORCE A CHILD CUSTODY DETERMINATION (INSTRUCTIONS ONLY)

How to assemble these documents

This packet contains instructions and procedures to file a ***“Petition to Enforce a Child Custody Determination.”*** Be sure the documents are in the following order.

Order	File Number	Title	No. Pp.
1	DREHC1it	Table of instructions in this packet	1
2	DREHC11i	<i>“Instructions: How to Fill Out the ‘Petition to Enforce a Child Custody Determination’ and Other Court Papers”</i>	4
3	DREHC11p	<i>“Procedures: What to Do with the Court Documents After You have Filled Them Out”</i>	2

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Self-Service Center

INSTRUCTIONS: HOW TO FILL OUT THE PETITION TO ENFORCE A CHILD CUSTODY DETERMINATION and OTHER COURT PAPERS

GENERAL INSTRUCTIONS:

STEP INSTRUCTION

- 1** Complete all of the court forms included in the form's packet as instructed below. All forms must be neatly printed or typewritten, in black ink. All of the blanks must be answered or you must write in N/A for not applicable. If you have any legal questions, you should see a lawyer for help.

"PETITION TO ENFORCE A CHILD CUSTODY DETERMINATION". Follow these instructions lettered and/or numbered to match the letters/numbers on the form.

STEP INSTRUCTION

- (A)** Fill in your name, address (if not protected), city, state, zip code, and telephone number. If your case has an ATLAS number, write in the ATLAS number. If you are represented by an attorney write in the attorney's bar number, and check the box that shows who represents you.
- (B)** Fill in the name of the Petitioner. If you have an Arizona custody decree or order, use the same name for the Petitioner that is on the other pleadings. If this is the first pleading/document to be filed in Arizona, you are the Petitioner and you should write in your name.
- (C)** Fill in the Case Number if you have a Maricopa County case. If you do not have a Maricopa County case, leave this space blank and the Clerk of the Court will stamp your documents with a number.
- (D)** Fill in the name of the Respondent. If you have an Arizona custody decree or order, use the same name for the Respondent that is on the other pleadings. If this is the first pleading/document to be filed in Arizona, the other party or person who has illegally withheld your child(ren) from you is the Respondent and you should write in that party's name.

STATEMENTS MADE TO THE COURT, UNDER OATH

- 1** **Information about Me, the Applicant.** Fill in your name, address, and relationship to the child(ren) who have been illegally withheld from your custody.
- 2** **Information about the Other Party who has your Child(ren).** Fill in the other party's name, address, and relationship to the child(ren) who have been illegally withheld from your custody.
- 3** **Information about Child(ren) under 18 years old about whom this Petition is Filed:** Fill in the name of each child, each child's date of birth, the age of each child, and the location of each child right now. **WARNING:** If you do not know where the child(ren) is/are located, this procedure will not work. The Judge must be able to tell the Sheriff where to serve the ***"Warrant to Take Physical Custody of Child(ren)"*** and how to pick-up the child(ren) if necessary.

4

Information about Current Custody Situation: You must have a current custody order that gives you custody of the child(ren) OR you must have talked to a lawyer who has told you to file a ***“Petition to Enforce a Child Custody Determination.”*** The lawyer must give you the reasons why you can file a ***“Petition to Enforce a Child Custody Determination.”*** Do not use these forms unless this is true.

- A. Custody Order entered.** If you have a current custody order that gives you custody of the child(ren), write in the date of the Order, the city and state in which the court is located where the Order was signed, and the name of the Judge who signed the Order. Then, write in the name of the person who was given/awarded custody of the child(ren). (Note: If you were not awarded custody, this procedure will not work for you.)
- B. No Custody Order, but I have spoken to a lawyer who has told me to file a *“Petition to Enforce a Child Custody Determination.”*** Do not write in this space unless you have spoken to a lawyer who has given you the reasons why this form will work for you. If you have spoken to a lawyer, write in the reasons the lawyer gave you for filing a ***“Petition to Enforce a Child Custody Determination.”***

5

Pending Court Cases Regarding the Custody/Visitation Related to the Child(ren).

Check only one box. If you do not have any information about any pending court cases regarding the custody/visitation related to the child(ren), check the first box, and go on to number 6.

If you do have any information, check the second box, and write in the name of each child, the name of the court, the court location, the court case number, the current status of the case, how the child is involved, and a brief summary of the court order if there is one. If you need more space, attach another piece of paper. Then go on to number 6.

6

Registration of Custody Order from Another State (If applicable). If you have a custody order about the child(ren) illegally taken from you that is from another state, you can register that out-of-state order in Arizona. For more information on that process, please see Arizona Revised Statutes Section 25-1055. If you have registered an out-of-state custody order in Arizona, please write in the spaces provided the name of the Arizona court where you registered the order, and the date when that was done.

7

Why you Need the Court to Issue an Order Directing the Person(s) with Physical Custody of the Child(ren) to Appear in Court. Write in the name of the person who has the child(ren) without your consent, and without lawful authority.

8

Why you Need the Court to Issue a Warrant to Take Physical Custody of Child(ren).

If this section applies to you, explain to the judge how the child(ren) is/are in immediate danger and will suffer harm or why you think the person who has the child(ren) will flee with the child(ren) if an order is not entered today. If this section does not apply to you, write in N/A for not applicable, and go on to number 9. (Note. The form entitled ***“Warrant to Take Physical Custody of Child(ren)”*** is not in your packet, but has been given to the Judges directly. If the Judge believes you are entitled to this Warrant, he or she will sign a ***“Warrant to Take Physical Custody of Child(ren).”***)

RELIEF REQUESTED. This section of the Petition asks the Court to make orders relating to the relief you are asking for. **You should know that this procedure does not result in the child(ren) being returned to you immediately. The child(ren) will either remain with the other party until after a hearing, or the Judge will order the Sheriff to pick-up the child(ren) immediately, and the child(ren) will go to Child Protective Services until after a hearing.**

OATH AND VERIFICATION. You must sign the oath and verification section in front of a Notary Public. Make sure you bring picture identification with you. You should only sign the oath and verification section after you have carefully reviewed your Petition and believe that everything contained in the Petition is true and correct. By signing the Petition under oath, you swear, under penalty of perjury, that the information is true.

OTHER FORMS

FAMILY COURT COVERSHEET: Do NOT fill out this form if you already have a case in this Court involving custody of the child(ren) held illegally.

Print or type in black ink.

Case Type: Check only one box that matches the legal procedure for which you are filing the documents in this packet.

Information About the Petitioner: Write in your name, address, home telephone number, work telephone number, cell phone/pager number, date of birth, social security number, and e-mail address in the space provided. If your address and telephone numbers are protected, you do not need to fill in this information. However, you must let the Clerk of the Court know how to reach you. If a lawyer represents you, the Petitioner, you must also write in the lawyer's name and bar number.

Information about the other party, the Respondent: Write in the name of the Respondent. If you know the Respondent's address, home telephone number, work telephone number, cell phone/pager number, date of birth, social security number, and e-mail address, you must write in this information.

Minor Children Involved: List the names, dates of birth, and social security numbers for any minor children involved in this specific case.

Other Minor Children: If there are other children of either the Petitioner or the Respondent or both not involved with this case, list their names on the lines provided.

Other court cases: Check the appropriate box to tell this Court if either you or your spouse have been involved in any other cases, except a minor traffic offense, in any other court. If you check the Yes box, please describe the case, including case numbers and court location.

Domestic Violence Section: Answer the questions listed regarding domestic violence. This information will help court staff determine if this issue is relevant to this case.

Children's Issues Section: Answer the questions regarding the children you listed on the Family Court Cover Sheet. This information will help court staff determine if these issues are relevant to this case, and/or whether a case exists in this Court already regarding any child you listed.

Location: If you are filing your documents in Phoenix, check the Downtown Phoenix box. If you are filing your documents in Mesa, check the Mesa box.

“Order for Appearance of Person(s) With Physical Custody of the Child(ren)”. Follow these lettered instructions to match the letters on the form. The Judge will fill in the rest of the Order and date and sign it.

STEP	INSTRUCTION
-------------	--------------------

- | | |
|------------|--|
| (A) | Fill in your name, address (if not protected), city, state, zip code, and telephone number. If your case has an ATLAS number, write in the ATLAS number. If you are represented by an attorney write in the attorney's bar number, and check the box that shows who represents you. |
| (B) | Fill in the name of the Petitioner. If you have an Arizona custody decree or order, use the same name for the Petitioner that is on the other pleadings. If this is the first pleading/document to be filed in Arizona, you are the Petitioner and you should write in your name. |
| (C) | Fill in the Case Number if you have a Maricopa County case. If you do not have a Maricopa County case, leave this space blank and the Clerk of the Court will stamp your documents with a number. |
| (D) | Fill in the name of the Respondent. If you have an Arizona custody decree or order, use the same name for the Respondent that is on the other pleadings. If this is the first pleading/document to be filed in Arizona, the other party or person who has illegally withheld your child(ren) from you is the Respondent and you should write in that party's name. |

NEXT STEP. Read the document called ***“Procedures: What to do With the Court Documents After You Have Filled Them Out”***.

Self-Service Center
PROCEDURES: WHAT TO DO WITH THE COURT
DOCUMENTS AFTER YOU HAVE FILLED THEM OUT

STEP 1: Make copies of the following documents after you have filled them out:

DOCUMENT	NUMBER OF COPIES
✓ <i>"Family Court Cover Sheet"</i> (if necessary)	2
✓ <i>"Petition to Enforce a Child Custody Determination"</i>	4
✓ <i>"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"</i>	3

STEP 2: Separate your documents into five (5) sets:

SET 1 - ORIGINALS:

- ✓ *"Family Court Cover Sheet"* (if necessary)
- ✓ *"Petition to Enforce Child Custody Determination"*

SET 2 - YOUR COPIES:

- ✓ *"Family Court Cover Sheet"* (if necessary)
- ✓ *"Petition to Enforce Child Custody Determination"*
- ✓ *"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"*

SET 3 - COPIES FOR THE OTHER PARTY:

- ✓ *"Petition to Enforce Child Custody Determination"*
- ✓ *"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"*

SET 4 - ORIGINAL AND COPIES FOR THE JUDGE:

- ✓ *"Petition to Enforce Child Custody Determination"*
- ✓ *"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"* (original)

SET 5 - COPIES FOR THE SHERIFF:

- ✓ *"Petition to Enforce Child Custody Determination"*
- ✓ *"Order for Appearance of Person(s) With Physical Custody of the Child(ren)"*

STEP 3: File the papers at the Court:

GO TO:

GO TO THE SUPERIOR COURT TO FILE YOUR PAPERS:

The court is open from 8am-5pm, Monday-Friday. **You should go to the court at least two hours before it closes.** You may file your court papers at the following Superior Court locations:

The Clerk of the Superior Court
Central Court Building
201 West Jefferson, 1st floor
Phoenix, Arizona 85003

The Clerk of the Superior Court
Southeast Court Complex
222 East Javelina Drive, 1st floor
Mesa, Arizona 85210

The Clerk of the Superior Court
Northwest Court Complex
14264 West Tierra Buena Lane
Surprise, Arizona 85374

FILE:

Go to the Clerk of the Court filing counter to file your documents.

FEES:

There are no filing fees or service fees for this procedure.

WHAT THE FILING CLERK WILL DO:

The Clerk will keep the original of the *"Petition to Enforce a Child Custody Determination"* to place in the permanent Court file. The Clerk will then court-stamp all the originals and copies you have, to show what documents were filed, and give them back to you.

STEP 4: Take the ***“Petition to Enforce a Child Custody Determination”*** and the other court papers given back to you by the Filing Clerk to the Judge’s office if your case is filed in Downtown Phoenix or Surprise, or take it to Family Court Administration if your case is filed in Mesa. If you are not sure which Judge is assigned to your case, call Family Court Administration at 602-506-1561 in Downtown Phoenix, 602-506-2021 in Mesa, or 623-372-9403 in Surprise.

If you filed your Petition in Downtown Phoenix or Surprise, you will be asked to wait outside the Judge’s office until the Judge has the opportunity to grant or deny your Petition. If you filed your Petition in Mesa, you will be told by Family Court Administration to take your papers to the floor where the Judge is located, and you will be met by the Judge’s staff. You will be asked to wait until the Judge has the opportunity to grant or deny your Petition.

WARNING: If you have a custody order, the Judge will often ask his or her staff to confirm that it is valid. This takes time. If you take your papers to the Judge late in the afternoon, it is not always possible to confirm the validity of the custody order until the next day. You should try your very best to take your papers to the Judge as soon as possible in the morning.

What the Judge will do: The judge will look over the ***“Petition to Enforce a Child Custody Determination.”*** The Judge might want to:

- ✓ Sign the ***“Order for Appearance of Person(s) with Physical Custody of the Child(ren)”*** without seeing you,
- ✓ OR ask you to come into the office and explain the situation,
- ✓ OR have a formal court hearing.

The Judge will then decide one of the following:

- ✓ To sign the ***“Order for Appearance of Person(s) with Physical Custody of the Child(ren),”*** which will schedule a court hearing.
- ✓ OR reject your request and not sign the ***“Order for Appearance of Person(s) with Physical Custody of the Child(ren)”*** right then,
- ✓ OR to order whatever else the Judge thinks is proper. This includes orders against you if the Judge thinks you deliberately tried to do something improper by filing the ***“Petition to Enforce a Child Custody Determination”***.

If the Judge signs the ***“Order for Appearance of Person(s) with Physical Custody of the Child(ren)”***, the Judge or his or her staff will keep the original and the courtroom clerk will make a certified copy to give you.

STEP 5: Get a certified copy of the completed ***“Order for Appearance of Person(s) with Physical Custody of the Child(ren)”*** and a copy of your petition legally served on the other party. You can hire a private process server for this, or you can go to the Maricopa County Sheriff’s Office to have the documents served on the other party. If you go to the Sheriff’s Office, someone at that office will ask you to fill out a form, or ask you many questions about the other party and the child(ren), including what they look like, where they live, where they work, and so forth. They may also ask you for pictures of the other party and the child(ren) if you have them, and will conduct a criminal history check on all parties involved. For more information on your options for legally serving the other party with court papers, please see the Self-Service Center packet Number Two on “Service”.

STEP 6: **The Court Hearing.** Be sure to write down the date, time and place of the court hearing, and come to the hearing. Be on time. Dress neatly. Be prepared to show the Judge why you are entitled to the custody of the child. **Unless you have been ordered to bring your child(ren) to court, do not bring any child(ren) to Court.**